

DEC 24 2008

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

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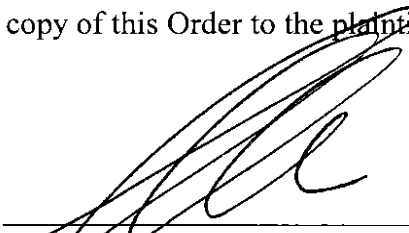
JOSEPH GIARRATANO,	)	Civil Action No. 7:08cv00361
Petitioner,	)	
	)	
v.	)	<b><u>FINAL ORDER ADOPTING</u></b>
	)	<b><u>REPORT AND RECOMMENDATION</u></b>
	)	
A. HARVEY, <u>et al.</u> ,	)	By: Samuel G. Wilson
Defendants.	)	United States District Judge

Joseph Giarratano, proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983, alleging that the defendants violated his constitutional rights by opening his mail from a paralegal. Defendants moved for summary judgment and the court referred the matter to United States Magistrate Judge Michael F. Urbanski for a Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge subsequently filed a report, finding that Giarratano's allegations failed to state a claim upon which relief may be granted, and recommending that the court dismiss this action. Giarratano filed objections within the ten days allotted under 28 U.S.C. § 636(b), largely reiterating the arguments made in his pleadings. Having reviewed the Report and Recommendation, the objections thereto, and pertinent portions of the record de novo in accordance with 28 U.S.C. § 636(b)(1), the court agrees with the Magistrate Judge's recommendation.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that Giarratano's objections are **OVERRULED**; the Magistrate Judge's Report and Recommendation is **ADOPTED** in its entirety; defendant's motion for summary judgment is **DISMISSED**; this action is **DISMISSED** for failure to state a claim; and this matter is **STRICKEN** from the active docket of the court.

The Clerk of the Court is directed to send a certified copy of this Order to the plaintiff.

ENTER: This 24<sup>th</sup> day of December, 2008.

  
\_\_\_\_\_  
United States District Judge